IN THE

Supreme Court of the United States

OCTOBER TERM, 1954

No. 203

FRANK LEWIS, *Petitioner*

v.

UNITED STATES OF AMERICA

PETITION FOR REHEARING

WALTER E. GALLAGHER
821 Fifteenth Street, N. W.
Washington, D. C.

MYRON G. EHRLICH
Columbian Building
Washington, D. C.

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PETITION FOR REHEARING

Petitioner respectfully petitions the Court for a rehearing in this cause, or, at the least, a modification of its opinion hereinbefore rendered (75 S. Ct., p. 415). The information filed in this cause by the United States in the Municipal Court for the District of Columbia on October 7, 1952 (R-1) charged in pertinent part as follows:

> "*Frank Lewis on December 13, 1951, and on diverse other days thereafter during the month of December, 1951,* in the District of Columbia engaged in the business of accepting wagers, by reason of such activity he was required by law to pay the occupational tax (wagering) of Fifty Dollars ($50.00) as imposed by Section 3290 of Internal Revenue Code, he failed to pay said tax, all in violation of Section 3294(a) In-

> ternal Revenue Code: Title 26, U. S. Code, Section 3294(a) and Section 2707(a) Internal Revenue Code as made applicable by Section 3294(c) Internal Revenue Code." (Italics supplied)

This Court apparently did not realize from the language employed in this information that this petitioner was not arrested in December, 1951, for failing to have purchased a wagering stamp. *This petitioner was arrested on December 19, 1951, for alleged violations of Sections 1501 and 1502 of Title 22 of the District of Columbia Code, which sections make it a criminal offense to operate lotteries (pages 16-17).* A copy of the certified copy of the record of the United States District Court for the District of Columbia with respect to these charges is found at pages 10-15. It must be noted that at the time of the first presentation of this petitioner to the United States Commissioner (page 15) he was

> ". . . not required to make a statement *and was advised that any statement made by him may be used against him.*" (Italics supplied)

Having been arrested on December 19, 1951, for these violations of the District of Columbia Code and the hearing continued until January 16, 1952 (page 13), there is no question but that this petitioner properly feared prosecution inasmuch as the first steps to bring him to trial in a criminal action had been taken. For this reason, this petitioner correctly concluded that he could not comply with the provisions of the Wagering Tax Act, 26 U.S.C., Sections 3290, 3291, nor the Treasury Regulation which was then in force and effect. At the time of this petitioner's arrest, to wit, December 19, 1951, the Treasury Regulation then in effect was Tr. Reg. 132 Sec. 325.50 (page 17). In pertinent part this regulation provided:

> "SEC. 325.50. Registry, return, and payment of tax. (a) Every person engaging in the business of accepting wagers and liable to the 10 percent excise tax imposed by section 3285 of the Internal Revenue Code

> (see section 325.24 of these regulations) and every person engaged in receiving wagers for or on behalf of any person so liable *shall on or before the last day of the month in which business is commenced file a return on Form 11-C. . . .*" (Italics supplied)

This regulation of the Treasury Department stayed in effect until September 1, 1952, approximately nine months after this petitioner was arrested for violations of the District of Columbia Code (Pages 18-19). It is most important to note that this regulation then provided that the $50 tax was not required to be paid until the last day of the month in which the gambler first accepted wagers. As applied to this petitioner who commenced the business of accepting wagers in December, 1951, this meant that he did not have to comply with this regulation until December 31, 1951. However, December 31, 1951, the date on which the $50 tax was required to be paid by this petitioner, was *12 days after the petitioner's arrest for gambling in violation of the District of Columbia Code*, a body of Federal law. The accuracy of the foregoing is further confirmed by a reference to a Press Release issued by the Commissioner of Internal Revenue on August 29, 1952 (page 18) wherein in pertinent part he stated:

> "Tighter regulations for the enforcement of the wagering tax law will go into effect Monday, September 1, Commissioner Dunlap announced today.
>
> 'Under the new rules, gamblers who are liable for the $50 special Federal occupational tax must purchase their stamps before engaging in any taxable wagering activity. *Previous regulations allowed bookmakers, policy operators, their agents and employees until the end of the month in which they first commenced business to purchase the wagering occupational stamp'.*" . . . (Italics supplied)

There can be no question, therefore, that at the time this petitioner was arrested for engaging in the lottery business in the District of Columbia, to wit, December 19, 1951,

he was not required by Tr. Reg. 132, Sec. 325.50 to have paid the $50 tax prior thereto. He would have been in full compliance with this regulation which implemented the Wagering Tax Act if he had paid the $50 tax and registered on December 31, 1951. Obviously, however, and in full accord with the language of Mr. Justice Minton in this cause, the petitioner properly refused to pay the $50 tax on December 31, 1951, and give the information called for in the registration form required to be filed contemporaneously therewith. For, if the petitioner had paid the $50 tax and furnished the information called for on December 31, 1951, he would have confessed his guilt or at least corroborated the evidence that the United States had against him for violations of the District of Columbia Code *for which he had already been arrested and was awaiting action by the United States Grand Jury.* In the light of the opinion of this Court in this cause, the original Tr. Reg. 132, Sec. 325.50 in effect in December, 1951, would be held invalid by this Court if it was in force and effect today as incorrectly interpreting the Wagering Tax Act. However, even though that be true, this petitioner should not now be prosecuted for having accepted that Regulation as a correct interpretation of the provisions of the Wagering Tax Act in December, 1951. For to hold to the contrary would bring this Court to an absurd conclusion. This results from the fact that if this Court would seek now to apply the Wagering Tax Act and Tr. Reg. 132, Sec. 325.50, *as amended* (page 19), to this petitioner, it must do so to all others who engaged in the business of accepting wagers between April, 1952 and September 1, 1952. For, the statute of limitations will not fully run until September 1, 1955, as to all who complied with the old Regulation and who, therefore, paid the $50 tax on the last day of the month in which they first engaged in business. If this Court would seek to invalidate the old Tr. Reg. 132, Sec. 325.50 retroactively, such persons could still be prosecuted for failing to have paid the $50 tax

before they engaged in the business of accepting wagers even though they had paid the $50 tax on the last day of the month in which they first engaged in business in full compliance with said Regulation.

The absurdity of any such conclusion is obvious. Likewise the converse. Old Tr. Reg. 132, Sec. 325.50 had the effect of force and law at the time this petitioner was arrested for violating the anti-lottery sections of the District of Columbia Code. Accordingly, this petitioner properly refused to comply with that Regulation as it contravened the Fifth Amendment as applied to him in the District of Columbia. *That Regulation was wholly retrospective,* not prospective as is the amended regulation which was effective September 1, 1952. To endeavor to apply the existing *amended* Regulation and this Court's interpretation of the Wagering Tax Act subsequent to the activities of this petitioner in December, 1951, would clearly constitute an "ex post facto" application and be in contravention of the United States Constitution. Certainly, this petitioner properly relied on the interpretation of the Wagering Tax Act by the tax experts of the Treasury Department who issued old Tr. Reg. 132, Sec. 325.50 which was in force and effect in December, 1951, providing that the $50 tax was to be paid on the last day of the month in which the gambler first accepted wagers, which in this particular instance would be December 31, 1951.

In addition to the foregoing, the opinion of this Court requires justice to be done to this particular petitioner. Mr. Justice Minton concluded that there was nothing compulsory about the payment of the $50 tax and making of the prescribed disclosures required by the Act. While at this point this petitioner must accept the conclusion of the Court, there are several further questions with which this court is now confronted. If the payment of the tax and required disclosures be voluntary, then this petitioner would not have had the right, at his subsequent criminal trial for violating the Federal lottery statutes in the Dis-

trict of Columbia, to successfully object to the admissibility of the form containing this information when sought to be introduced at trial. It requires no citation of authority to state the well expressed rule that the important element of determining the admissibility of a confession is that it should be voluntary. Since this Court has found that the payment of the $50 tax and making the prescribed disclosures is voluntary and not compulsory, there could be no valid objection raised to the admissibility of these facts or information even though unquestionably such information would have incriminated, or at least tended to incriminate this petitioner since compliance was not required until December 31, 1951.

Further, if this petitioner had complied with the Treasury Regulation in force and effect in December, 1951, and furnished the information called for, and the same assumed to be voluntary, corroborative facts found as a result of his confession could be introduced not only in his subsequent criminal trial for violating the Federal lottery statutes in force and effect in the District of Columbia but the information calling for the names of his accomplices, etc. would also bring down upon him the threat of penalties far worse than those contained in Sections 1501 and 1502 of Title 22 of the District of Columbia Code for violations of which he had been arrested in December, 1951. The information called for would have opened him up to an indictment for a conspiracy to commit the offenses with the possibility of imprisonment for five years or a fine of $10,000. Such leads obtained from the giving of information called for would certainly be "fruit from the poisonous tree" referred to by Mr. Justice Frankfurter in speaking for this Court in *Nardone* v. *United States*, 308 U.S. 338.

On the other hand, since the Regulation in force and effect in December, 1951, was *retrospective* in its application and required the admission of Federal criminal offenses which had been committed prior thereto, under penalty of prosecution for failing so to do, this petitioner properly

failed to give this information or pay the $50 tax because he would have been compelled in contravention of his rights as set forth in the Fifth Amendment to testify against himself *in a criminal action.*

The Court in its opinion (page 417) states:

> "... Petitioner maintains that the taxes imposed are retrospective in application. *It is argued that he must be liable for the tax under subchapter A in the sense that he must have already wagered before he is required to take out the occupational tax, and that to require him to do so compels admission that he has gambled.* We do not so read the statute. The Act does not mean one must first have made a wager as defined in subchapter A and therefor incurred liability to pay the tax levied therein before liability for the occupational tax attaches. . . ." (Italics supplied)

The Court has apparently failed to consider the petitioner's basic argument, namely that the *10% tax is itself retrospective.* That being true, this petitioner could never be required to pay the 10% tax for to do so would tend to incriminate him. Since, however, the $50 tax must be only paid by those who are required to pay the 10% tax, this petitioner was under no obligation to pay the $50 tax.

Mr. Justice Minton, in disposing of the argument that this tax is in fact a "penalty in the guise of a tax," stated at page 417 of the Opinion:

> "The short answer to this argument is that this Court has long held that the Federal Government may tax what it also forbids. United States v. Statoff, 260 U.S. 477, 43 S. Ct. 197, 67 L. Ed. 358. . . ."

Contrary to Mr. Justice Minton's statement, this petitioner asserts that this Court has never held that the Federal Government may tax that which it *wholly* forbids. *The Federal Government has wholly prohibited gambling to the fullest extent of its powers as granted by the United States Constitution.* The error in the Court's statement is readily apparent when it is realized that if Mr. Justice Minton's

statement is a correct statement of the law, then this Court has for many decades indulged in frivolous language in enunciating the doctrine of "penalty in the guise of a tax." For if the Federal Government can tax that which it wholly forbids then there never could be a "penalty in the guise of a tax." Accordingly, in one short sentence this Court would now be negating the many holdings of this Court over the years affirming the doctrine that a "penalty in the guise of a tax" is invalid. For example, the decision of this Court in *United States* v. *La Franca*, 282 U.S. 560, and the many decisions of this Court relied on therein, have been completely overruled unless this Court modifies the language which it has used in the instant cause.

In conclusion the petitioner directs the Court's attention to the fact that if its decision is to stand without modification, then there is no longer any protection afforded by the Fifth Amendment for all existing Federal criminal statutes could now be amended to provide for the payment of a tax and the furnishing of information prior to the commission of the Federal crime in question and said tax would have to be held valid by this Court. Basically, all Federal crimes are "voluntary". Since that is true all criminals would lose the protection of the Fifth Amendment. For, even though the information would be required to be supplied in advance of the commission of a Federal crime, this decision as it now stands destroys the doctrine that the privilege against self-incrimination is available against furnishing any link in a chain of evidence which may tend to incriminate. This decision effectively overrules *Hoffman* v. *United States*, 71 S. Ct. 814, 818, and all other decisions of like nature.

For the foregoing reasons this petitioner respectfully requests a rehearing, or at the least a modification of its

opinion, construing the Wagering Tax Act as applied to this petitioner in December, 1951.

WALTER E. GALLAGHER
821 Fifteenth Street, N. W.
Washington, D. C.

MYRON G. EHRLICH
Columbian Building
Washington, D. C.

Certificate of Counsel

I, Walter E. Gallagher, counsel for the petitioner in the above-entitled cause, do certify that the Petition for Rehearing filed in this cause is presented in good faith and not for delay.

WALTER E. GALLAGHER
Counsel for Petitioner

APPENDIX A

Exemplification Certificate

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

I, HARRY M. HULL, Clerk of the United States District Court for the District of Columbia, and keeper of the records and seal thereof, hereby certify that the documents attached hereto are true copies of the indictment and Commissioner's Transcript, Warrant of Arrest and complaint in Criminal Case No. 666-52.

In testimony whereof I hereunto sign my name and affix the seal of said Court, in said District, at Washington, D. C., this 1st day of April, 1955.

HARRY M. HULL
Clerk

(Seal)

By: HELEN M. McINTOSH
Deputy Clerk

I, CHARLES F. McLAUGHLIN, United States District Judge for the District of Columbia, do hereby certify that HARRY M. HULL whose name is above written and subscribed, is and was at the date thereof, Clerk of said Court, duly appointed and sworn, and keeper of the records and seal thereof, and that the above certificate by him made, and his attestation or record thereof, is in due form of law.

CHARLES F. McLAUGHLIN
United States District Judge.

April 1, 1955.

I, HARRY M. HULL, Clerk of the United States District Court for the District of Columbia, and keeper of the seal thereof, hereby certify that the Honorable CHARLES F. McLAUGHLIN whose name is within written and subscribed, was on the 1st day of April, 1955, and now is Judge of said court, duly appointed, confirmed, sworn, and qualified; and that I am well acquainted with his hand writing and official signature and know and hereby certify the same within written to be his.

In testimony whereof I hereunto sign my name, and affix the seal of said Court at the city of Washington, in said District, on this 1st day of April, 1955.

HARRY M. HULL
Clerk

(Seal)

By: HELEN M. McINTOSH
Deputy Clerk

Filed in Open Court Apr. 22, 1952, Harry M. Hull, Clerk

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

(Grand Jury Impanelled Mar. 3, 1952 and Sworn in Mar. 4, 1952)

Criminal No. 666-'52
Grand Jury No. 201-52
Vio. 22 D.C.C. 1501, 1502

THE UNITED STATES OF AMERICA

v.

FRANK LEWIS

The Grand Jury charges:

Continuously during the period from about December 13, 1951 to about December 19, 1951, within the District of Columbia, Frank Lewis was concerned as owner, agent and clerk, and in other ways, in managing, carrying on and promoting a lottery known as the numbers game.

SECOND COUNT:

On or about December 13, 1951, within the District of Columbia, Frank Lewis sold and transferred to David Scott a chance, right and interest in a lottery known as the numbers game.

THIRD COUNT:

On or about December 14, 1951, within the District of Columbia, Frank Lewis sold and transferred to David

Scott a chance, right and interest in a lottery known as the numbers game.

FOURTH COUNT:

On or about December 15, 1951, within the District of Columbia, Frank Lewis sold and transferred to David Scott a chance, right and interest in a lottery known as the numbers game.

FIFTH COUNT:

On or about December 19, 1951, within the District of Columbia, Frank Lewis sold and transferred to David Scott a chance, right and interest in a lottery known as the numbers game.

SIXTH COUNT:

On or about December 19, 1951, within the District of Columbia, Frank Lewis knowingly had in his possession certain tickets, certificates, bills, slips, tokens, papers and writings, used and to be used, and adapted, devised and designed for the purpose of playing, carrying on and conducting a lottery known as the numbers game.

CHARLES M. IRELAN
Attorney of the United States in and for the District of Columbia

A True Bill:
DAVID V. DOZIER
Deputy Foreman.

Filed Feb. 4, 1952

666-'52
G. J. 201-52
(Bond)

UNITED STATES COMMISSIONER
DISTRICT OF COLUMBIA

Record of Proceedings in Criminal Cases

Before Cyril S. Lawrence, Municipal Center, 300 Indiana Ave., N. W., Washington, D. C.
Complaint filed on Dec. 18, 1951, by David Scott.

Official title Pvt., M.P.D.C., charging violation of United States Code, Title ....., Section ....., on Dec. 13, 14, 15, 1951, at Wash. in the ..... division of the ..... district of Columbia as follows: Policy lottery, etc.—D.C.C. Title 22, Sec. 1501 and 1502.

Commissioner's Docket No. 10, Case No. 4755

THE UNITED STATES

v.

FRANK LEWIS

Warrants Issued:

Date Dec. 18, 1951 Warrant for Frank Lewis to (name and title of officer) W. Bruce Matthews, U. S. Marshal, D. C., etc.

Substance of return Warrant returned by Frank Coknfoe, Deputy, U. S. Marshal, D. C. Executed by the arrest of Frank Lewis on Dec. 19, 1951.

Proceedings on First Presentation of Accused to Commissioner:

Date Dec. 19, 1951 Arrested by U. S. Marshal on warrant of U. S. Comm. Lawrence.

Proceedings taken Complaint prepared. Defendant was informed of the complaint and of his right to have a preliminary hearing and to retain counsel. Defendant was not required to make a statement and was advised that any statement made by him may be used against him. Defendant was advised of his right to cross-examination witnesses against him and to introduce evidence in his own behalf. Hearing continued to Jan. 16, 1952 at request of def. to obtain counsel.

Outcome Hearing continued to Jan. 16, 1952 at 11:00 A.M.

Bail fixed Dec. 19, 1951 Amount $1500.00 Bonded Dec. 19, 1951, by cash deposited by (name) ..... Address ..... transmitted to clerk of district court ....., 19.... [or] by surety (name) Louis Weinstein Address 406 5th St., N. W., who justified by affidavit dated Dec. 19, 1951.

Jan. 16, 1952—Hearing continued to Jan. 30, 1952 at request of def. Myron Ehrlich, atty.

Preliminary Examination:

Date Jan. 30, 1952 Appearances for United States Wm. S. Bryant, Asst. U.S. Atty. Accused Myron Ehrlich, atty.

Witnesses for United States:

Det. Olof J. Schelin, #1 Pct., M.P.D.C. Proceedings taken Probable cause shown. Held for Grand Jury.

Outcome Defendant held for the action of the Grand Jury. Bail fixed Jan 30, 1952 Amount, $1500.00 Bonded Jan. 30, 1952, by cash deposited by (name) ..... Address ..... transmitted to clerk of district court ....., 19.... [or] by surety (names) Louis Weinstein Address 406 5th St., N. W. who justified by affidavit Jan. 30, 1952.

Certified to be a correct transcript.

Made this 30th day of Jan., 1952.

Transmitted to Clerk of United States District Court for the district of Columbia, Jan. 30, 1952.

CYRIL LAWRENCE
United States Commissioner.

Filed Feb. 4, 1952

666-'52
G. J. 201-52

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Commissioner's Docket No. 10 Case No. 4755

UNITED STATES OF AMERICA

v.

JOHN DOE, colored, name unknown, about 30 years of age, 6 ft., 220 lbs., dark skin, two gold upper teeth. (Frank Lewis)

Warrant of Arrest

To W. Bruce Matthews, U. S. Marshal, D. C., or any other person authorized to serve same.

You are hereby commanded to arrest the above described John Doe, and bring him forthwith before the nearest available United States Commissioner to answer to a complaint charging him with on Dec. 13, 14, 15, 1951 at Wash., D. C.,

did unlawfully set up and promote a policy lottery and possess number slips, etc. in violation of D.C.C. Title 22, Sections 1501 and 1502.

Date Dec. 18, 1951.

CYRIL LAWRENCE
United States Commissioner.

Return

Received December 18, 1951 at Wash., D. C., and executed by arrest of Frank Lewis at Wash., D. C. on December 19, 1951.

W. BRUCE MATTHEWS
U. S. Marshal
Wash. District of D. C.

By FRANK COKNFOE
Deputy

Date December 19, 1951.

Filed Feb. 4, 1952

666-'52
G. J. 201-52

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Commissioner's Docket No. 10 Case No. 4755

UNITED STATES OF AMERICA

v.

JOHN DOE, colored, name unknown, about 30 years of age, 6 ft., 220 lbs., dark skin, two gold upper teeth. (Frank Lewis)

Complaint for Violation of D.C.C. Title 22, Sections 1501 and 1502

Before Cyril S. Lawrence, Commissioner Municipal Center, Washington, D. C.

The undersigned complainant being duly sworn states: That on or about Dec. 13, 14, 15, 1951, at 100 G Street, N. W. (N & G Cafe) Washington, in the District of Columbia, the above described John Doe did unlawfully set up and promote a policy lottery and possess number slips, did spe-

cifically on Dec. 15, 1951 accept from Pvt. David Scott, Adm. Hdqtrs., M.P.D.C. a numbers bet on #229 for 10¢, #311 for 10¢, #511 for 25¢, #430 for 10¢ and #731 for 25¢ paid in cash to John Doe by the said Pvt. David Scott and the said Pvt. Scott received a receipt for same.

And the complainant further states that he believes that Pvt. David Scott, Adm. Hdqtrs., M.P.D.C. are material witnesses in relation to this charge.

DAVID SCOTT
Pvt., Adm. Hdqtrs, M.P.D.C.

Sworn to before me, and subscribed in my presence, Dec. 18, 1951.

CYRIL LAWRENCE
United States Commissioner.

Act of March 3, 1901, 31 Stat. 1330, ch. 854, § 863; June 30, 1902, 32 Stat. 535, ch. 1329; Apr. 5, 1938, 52 Stat. 198, ch. 72, § 2, Title 22, D.C. Code, Sec. 1501:

LOTTERIES—PROMOTION—SALE OR POSSESSION OF TICKETS.

If any person shall within the District keep, set up, or promote, or be concerned as owner, agent, or clerk, or in any other manner, in managing, carrying on, promoting, or advertising, directly or indirectly, any policy lottery, policy shop, or any lottery, or shall sell or transfer any chance, right, or interest, tangible or intangible, in any policy lottery, or any lottery or shall sell or transfer any ticket, certificate, bill, token, or other device, purporting or intended to guarantee or assure to any person or entitle him to a chance of drawing or obtaining a prize to be drawn in any lottery, or in a game or device commonly known as policy lottery or policy or shall, for himself or another person, sell or transfer, or have in his possession for the purpose of sale or transfer, a chance or ticket in or share of a ticket in any lottery or any such bill, certificate, token, or other device, he shall be fined upon conviction of each said offense not more than $1,000 or be imprisoned not more than three years, or both. The possession of any copy or record of any such chance, right, or interest, or of any such ticket, certificate, bill, token, or other device shall be prima-facie evidence that the possessor of such copy

or record did, at the time and place of such possession, keep, set up, or promote, or was at such time and place concerned as owner, agent, or clerk, or otherwise in managing, carrying on, promoting, or advertising a policy lottery, policy shop, or lottery.

Act of April 5, 1938, 52 Stat. 198, ch. 72, § 2, Title 22, D. C. Code, Sec. 1502:

If any person shall within the District have in his possession, knowingly, any ticket, certificate, bill, slip, token, paper, writing, or other device used, or to be used, or adapted, devised, or designed for the purpose of playing, carrying on, or conducting any lottery, or the game or device commonly known as policy lottery or policy, he shall be fined upon conviction of each said offense not more than $500 or be imprisoned for not more than six months, or both.

* * * * * * * * * *

Tr. Reg. 132, Sec. 325.50. Registry, return, and payment of tax. (a) Every person engaging in the business of accepting wagers and liable to the 10 percent excise tax imposed by section 3285 of the Internal Revenue Code (see section 325.24 of these regulations) and every person engaged in receiving wagers for or on behalf of any person so liable shall on or before the last day of the month in which business is commenced file a return on Form 11-C. The return shall be filed with the collector of internal revenue for the district in which is located the taxpayer's office or principal place of business. If such taxpayer resides in the United States, but has no office or principal place of business in the United States, the return shall be filed with the collector of internal revenue for the district in which he resides. If the taxpayer has no office, residence, or principal place of business in the United States, the return shall be filed with the Collector of Internal Revenue, Baltimore, Md. The collector, upon request, will furnish to the taxpayer the proper forms which shall be filled out and signed as indicated therein.

(b) Every person engaged on November 1, 1951, in any business which makes him subject to the special tax, or first engaging in such business during the month of November 1951, shall register and file a return on Form 11-C and pay the tax on or before November 30, 1951. Thereafter,

such person shall register, file a return, and pay the tax on or before the last day of July of each year.

(c) Each return shall show the taxpayer's full name. A person doing business under an alias, style, or trade name shall give his true name, followed by his alias, style, or trade name. In the case of a partnership, association, firm, or company, other than a corporation, the style or trade name shall be given, also the true name of each member and his place of residence. In the case of a corporation, the true name and title of each officer and his place of residence shall be shown.

(d) Each person engaged in the business of accepting wagers on his own account shall furnish the name and address of each place where such business is conducted, together with the true name and residence address of each agent or employee accepting wagers on his behalf. Each agent or employee of a person accepting wagers shall furnish the name and residence address of each person (ie., individual, partnership, corporation, etc.) on whose behalf such wagers are accepted.

* * * * * * * * * *

"The Commissioner in a Press Release dated August 29, 1952, explained the amended regulations at ¶ 42,812 as follows:

"Tighter regulations for the enforcement of the wagering tax law will go into effect, Monday, September 1, Commissioner Dunlap announced today.

"Under the new rules, gamblers who are liable for the $50 special Federal occupational tax must purchase their stamps before engaging in any taxable wagering activity. *Previous regulations allowed bookmakers, policy operators, their agents and employees until the end of the month in which they first commenced business to purchase the wagering occupational stamp.*

"Commissioner Dunlap said that the old regulations, which have been in effect since November 1, 1951, caused difficulties in the enforcement of the stamp tax. When gamblers and their agents were arrested by local authorities their defense usually was that they had just commenced business. In the absence of proof to the contrary, no Federal prosecution could be undertaken if the arrested person paid the special wagering tax before the end of the month

in which he was arrested. The new regulations, which become effective on Monday, provide that anyone in the business of taking taxable wagers for his own account or for the account of another person will be liable to prosecution if he does not have a wagering stamp at the time he accepts a bet.

"A new occupational stamp must be purchased on or before July 1 of each year that the wagering business continues.

"The new rule is expected to assist the Bureau of Internal Revenue in its task of collecting the 10 percent excise tax on wagers placed with bookmakers, policy operators, and persons conducting lotteries." (Emphasis supplied)

* * * * * * * * * *

"TR. REG. 132, SEC. 325.50. *Registry, return and payment of tax.*

"(a) No person shall engage in the business of accepting wagers subject to the 10 percent excise tax imposed by section 3285 of the Internal Revenue Code (see section 325.24) until he has filed a return on Form 11-C and paid the special tax imposed by section 3290. Likewise, no person shall engage in receiving wagers for or on behalf of any person engaged in such business until he has filed a return on Form 11-C and paid the special tax imposed by section 3290 of the Internal Revenue Code. * * *"